

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA
(U.S. Department of Housing and
Urban Development),

Plaintiff

v.

JOHN DOE and RICHARD ROE, as
those unknown persons who may be
the holders of the lost mortgage
note of have any interest in
this proceeding,

Defendants

CIVIL NO. 09-1947 (JP)

FINAL JUDGMENT BY DEFAULT

The Court has before it Plaintiff United States of America's ("USA") motion for judgment by default (**No. 10**). The motion is **GRANTED**.

I. FINDINGS OF FACT

On or before September 17, 1980, Reynaldo Carrasquillo-Torres and María de Jesús received from the USA, acting through the U.S. Department of Housing and Urban Development, a loan in the amount of \$38,000.00 on the property described herein below.

In evidence of the money lent by Plaintiff USA, Reynaldo Carrasquillo-Torres and María de Jesús executed in favor of Plaintiff a promissory note dated September 17, 1980, in the amount of

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\$38,000.00, at twelve (12) percent interest rate, payable to George Romney, Secretary of Housing and Urban Development.

To secure the payment of said promissory note, Reynaldo Carrasquillo-Torres and María de Jesús executed a First Mortgage in favor of Plaintiff USA, on September 17, 1980, by Mortgage Deed No. 235 before notary public Rafael Kodesh-Baragano.

The above-described mortgage was made over the following property, described in the Spanish language as:

URBANA: Solar radicado en la URBANIZACIÓN VISTA DE LUQUILLO, situado en el Barrio Mata de Plátano del Municipio de Luquillo, marcado con el número 37-D, con un área de 318.00 metros cuadrados. En lindes por el Norte, en 24.00 metros, con el solar Núm. 36; por el Sur, en 24.00 metros, con el solar Núm. 38; por el Este, en 13.25 metros, con el solar Núm. 30; y por el Oeste, en 13.25 metros, con la Calle V-2 de dicha Urbanización. Enclava una casa.

The aforementioned First Mortgage Deed executed in favor of Plaintiff USA was duly recorded in the Registry of Property of Fajardo, Puerto Rico, at page 60 overleaf of volume 154 of Luquillo, property number 8586, 1st inscription, where it remains in full force and effect.

According to information received from the USA, the original promissory note of \$38,000.00, dated September 17, 1980, while in possession of and under the custody of the U.S. Department of Housing and Urban Development, was lost, misplaced or destroyed and although

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a thorough search has been made, it has been unable to find or locate said note.

The indebtedness assumed by Reynaldo Carrasquillo-Torres and María de Jesús to Plaintiff USA has been paid in full.

II. ANALYSIS

Under Articles 132 and 134 of the Mortgage and Property Act, Law 198 of 1979 as amended (30 L.P.R.A. §§ 2456 and 2458), and 28 U.S.C. § 1655, when a mortgage note has been lost as alleged above, the mortgage may be canceled of record by the Registrar of Property only by judicial decree obtained by a court of competent jurisdiction in a civil proceeding such as authorized by the Code of Civil Procedure of Puerto Rico, in which the court decrees that the mortgage obligation is extinguished. The Court is informed by Plaintiff that the indebtedness assumed by Reynaldo Carrasquillo-Torres and María de Jesús has been paid in full.

Defendants were duly served by publication pursuant to the Court's Order (No. 4). Notice was published in the newspaper "El Nuevo Día" on October 7, 14, 21, and 28, of 2009, and on November 4 and 11, 2009, as per verified statement filed with the Clerk of this Court pursuant to Rule 4 of the Rules of Civil Procedure of Puerto Rico, as required by Article 82 of the Mortgage Law (30 L.P.R.A. § 156) and 28 U.S.C. § 1655. Despite service by publication, none of the Defendants have answered the Complaint. The Clerk of the Court entered default on January 28, 2010 (No. 11).

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The Court hereby **ORDERS:**

- (1) That Judgment be entered against Defendants herein declaring that the aforementioned mortgage obligation is extinguished.
- (2) That the promissory note in the amounts of \$38,000.00 of principal on the unpaid balance executed by Reynaldo Carrasquillo-Torres and María de Jesús on September 17, 1980, in the possession of whomsoever it may now be or become in the future, be hereby declared null and void, and therefore canceled.
- (3) That the Registrar of Property of Fajardo, Puerto Rico, cancel and nullify the mortgage executed by Reynaldo Carrasquillo-Torres and María de Jesús to secure the payment of the promissory note which appears duly recorded in the Registry of Property at page 60 overleaf of volume 154 of Luquillo, property number 8586, 1st inscription.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 2nd day of February, 2010.

s/Jaime Pieras, Jr.
JAIME PIERAS, JR.
U.S. SENIOR DISTRICT JUDGE